

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

KEITH COLE, JACKIE BRANNUM,	§	
RICHARD KING, FRED WALLACE,	§	
LAVAR SANTEE, and MARVIN RAY	§	
YATES, individually and on behalf of	§	
those similarly situated,	§	
<i>Plaintiffs,</i>	§	
	§	
v.	§	CIVIL ACTION NO. 4:14-CV-1698
	§	
BRYAN COLLIER, in his official	§	
capacity, ROBERTO HERRERA, in his	§	
official capacity, and TEXAS	§	
DEPARTMENT OF CRIMINAL	§	
JUSTICE,	§	
<i>Defendants.</i>	§	

---

**Response to Court’s Order for Response, Docket No. 1495,  
By Defendants Texas Department of Criminal Justice, Bryan Collier, and  
Roberto Herrera**

---

Defendants Bryan Collier, Roberto Herrera, and the Texas Department of Criminal Justice (collectively, “TDCJ”) submit this response to the Court’s inquiry regarding cold temperatures at TDCJ facilities.

**I. STATEMENT OF THE ISSUE**

Although this case raises claims regarding the high indoor temperatures at the Wallace Pack Unit and units where class members reside, the Court has inquired about the cold temperatures at TDCJ units. TDCJ provides the following information about the units where class members reside and about the heating systems generally.

**II. INFORMATION REGARDING HEATING SYSTEMS**

Attached is a declaration from David Sweetin, Deputy Director of the Facilities Division, explaining the protocols for when TDCJ units activate the heating systems every winter season. Exhibit A. TDCJ maintains facilities throughout the state and in a wide range of geographical areas. Unit-level discretion is accordingly relied upon

to determine when to activate the heating systems as the temperatures turn colder. The decision is based on the current and anticipated, indoor and/or outdoor temperatures and other factors. *Exhibit A at 1.*

At the Pack Unit and other units where class members reside, the heating systems were manually activated for the winter on the following dates:

Pack Unit: October 30, 2019

Estelle Unit: October 23, 2019

Jester III: October 30, 2019

Jester IV: November 8, 2019

Young Unit: October 24, 2019

The Michael and Stiles Units have automated thermostats, which self-adjust based on the outdoor temperature. *See Exhibit A at 1.*

Each prisoner is also issued a blanket and a winter jacket during the winter season. See Exhibits C and D (requiring distribution of “necessities,” including winter jackets). At the Pack Unit, blankets are available to prisoners year round, and the winter jackets were distributed to all prisoners by October 13, 2019. *See Exhibit B at 5.* Each of the other units that house class members has distributed blankets and jackets for this winter. *See Exhibit B.*

Respectfully submitted,

**KEN PAXTON**

Attorney General of Texas

**JEFFREY C. MATEER**

First Assistant Attorney General

**DARREN McCARTY**

Deputy Attorney General for Civil Litigation

**SHANNA E. MOLINARE**

Division Chief, Law Enforcement Defense  
Division

**JEANINE COGGESHALL**

Assistant Attorney General  
Co-Counsel

/s/ Leah O'Leary

**LEAH O'LEARY**

State Bar No. 24079074  
Southern District No. 1563191  
P. O. Box 12548, Capitol Station  
Austin, Texas 78711  
(512) 463-2080 / (512) 370-9814 Fax  
Leah.OLeary@oag.texas.gov

**ATTORNEYS FOR DEFENDANTS  
COLLIER, HERRERA, AND TDCJ**

**NOTICE OF ELECTRONIC FILING**

I, **Leah O'Leary**, Assistant Attorney General of Texas, do hereby certify that I have electronically filed this pleading in accordance with the Electronic Case Files System of the Southern District of Texas, on November 14, 2019.

/s/ Leah O'Leary

**LEAH O'LEARY**

Assistant Attorney General

**CERTIFICATE OF SERVICE**

I, **Leah O'Leary**, Assistant Attorney General of Texas, certify that a true and correct copy of the foregoing has been served to all attorneys of record by electronic notice in accordance with Rule 5(b)(2) of the Federal Rules of Civil Procedure on November 14, 2019.

/s/ Leah O'Leary

**LEAH O'LEARY**

Assistant Attorney General